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**Michigan Commission on Law Enforcement Standards**  
**Commission Meeting Minutes**

**August 23, 2001**

**Northern Michigan University, Erie Room, Marquette, Michigan**

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**MCOLCS MEMBERS PRESENT:**

Sheriff Henry Zavislak, representing the Michigan Sheriffs' Association  
Officer Richard Weaver, representing the Detroit Police Officers Association  
Mr. Jack Brown, representing the Fraternal Order of Police  
Mr. James DeVries, representing the Police Officers Association of Michigan  
Major Marie Waalkes, representing the Michigan State Police  
Chief Richard Butler, representing the Michigan Association of Chiefs of Police  
Director Robert Denslow, representing the Michigan Association of Chiefs of Police  
Sheriff Gary Rosema, representing the Michigan Sheriffs' Association

**MCOLCS MEMBERS EXCUSED:**

Sheriff Tom Edmonds, representing the Michigan Sheriffs' Association  
Mr. William Dennis, representing the Attorney General's Office

**COMMISSION STAFF PRESENT:**

Mr. Raymond Beach	Mr. William Nash
Mr. Dale Rothenberger	Ms. Cheryl Hartwell
Mr. Daniel Furniss	Ms. Hermina Kramp
Mr. Gary Ruffini	Mr. Mark Meadows

**GUESTS:**

Ms. Niki Norman, Secretary, Northern Michigan University Department of Public Safety  
Sheriff Don Charlevoix, Dickinson County Sheriff Department  
Undersheriff Jack Snyder, Marquette County Sheriff Department  
Chief Phil Siegrist, Marquette Police Department  
Sheriff Gary Maddox, Schoolcraft County Sheriff Department  
Captain Jeff Mincheff, Northern Michigan University Public Safety  
Director Ken Chant, Northern Michigan University Public Safety  
Chief Brad Arnsperger, Forsyth Township Police Department  
Mr. Michael Bath, Northern Michigan University Public Safety

### **CALL TO ORDER:**

The Commission Meeting was called to order by Chairman Richard Butler at 9:00 a.m. in the Erie Room at Northern Michigan University in Marquette, Michigan.

### **INTRODUCTIONS:**

Chairman Butler welcomed everyone to the Commission meeting and asked that all in attendance introduce themselves.

### **PUBLIC FORUM/COMMENTS:**

There was no public comment.

### **AGENDA ITEMS:**

Chairman Butler reviewed the MCOLES agenda items for the audience. They were as follows:

- Pre-employment Test Development – Physical Fitness Exam
- FY2002 MCOLES Division Budget
- MCOLES Information Technology Network
- Police Ethics – Mr. Ken Chant, Northern Michigan University
- Decertification Investigations – Final Action and Order

### **ADDITIONS TO THE AGENDA:**

There were no additions to the agenda.

### **ACCEPTANCE OF THE JULY 24, 2001, MCOLES MEETING MINUTES:**

A **MOTION** was made by Mr. Jim DeVries and supported by Major Marie Waalkes to accept the minutes of the July 24, 2001, Commission Meeting, as written.

A **VOTE** was taken. The motion carried.

## **CHAIRMAN’S REPORT:**

Chairman Butler announced that the combined efforts of the Michigan Justice Training Commission and the Commission on Law Enforcement Standards had resulted in a recommendation to Governor Engler to combine the two commissions. Chairman Butler stated that the Governor is scheduled to make a decision on this issue soon. Chairman Butler reminded everyone that this is a difficult process and thanked all that were involved. Chairman Butler stated that the process is moving toward a successful conclusion and that the Executive Order will result in a more efficient organization.

## **EXECUTIVE DIRECTOR’S REPORT:**

Mr. Raymond Beach reported to the Commission on the following issues:

**Hiring Practices** – Over the past several months, it has been difficult to fill the five vacancies in the MCOLES division. The selection process was halted by the State hiring freeze. With the support of the Michigan State Police, the MCOLES was able to hire Mr. John Steele, who was an employee of the Criminal Justice Information Center. The division was also able to fill one vacant secretarial position from within the State Police. An appeal to the hiring freeze was filed with the Department of Management and Budget to fill the remaining vacant positions. As a result of the appeal, the MCOLES was approved to hire two additional employees: Mr. Pat Hutting, the former Sheriff of Eaton County, and Ms. Margaret Edwards, who was with the Attorney General’s Office. Ms. Katie Bower resigned to accept a job with the Criminal Justice Information Center, and staff is working to fill that vacant position.

**CCW Update** – A special Commission meeting was held on July 24, 2001, to implement state certification for instructors and civilian pistol courses required by the new legislation. Late in April of 2001, the Commission was asked to become the entity described in the legislation as “the State”, and staff has worked very hard to prepare a curriculum, which was approved by the Commission on July 24, 2001. The biggest issue facing the agencies is implementing a program to train their reserves, correction officers, and other employees on the new laws. Also at issue is the legislation giving no credit to existing police officers that have been trained by MCOLES, even though it exceeds the standards set for civilians by the legislation. MCOLES will work with administrators to establish special programs within the agencies so officers can obtain a CCW permit if they desire when they retire or leave their agency.

**Basic Training Cycle** – Mr. Beach stated that by the next basic training cycle in January 2002, MCOLES hopes to make adjustments to the curriculum to incorporate some

## **EXECUTIVE DIRECTOR'S REPORT Continued:**

necessary content areas. This would allow every basic training recruit graduating after the start of the next cycle to be in compliance with Public Act 203.

**Meth Lab Training** – MCOLES has continued to work with MSP-CID to get the word out on the dangers of labs. Staff has facilitated two more training sessions that were well attended at Ferris State University and Macomb County Community College, and an instructor program at Washtenaw Community College.

**FY2003 Budget Development** – The FY2003 budget development process is already underway. A full presentation will be given later in the agenda.

**Fall Training Directors Conference** - The Training Directors Conference is scheduled for October 17-19, 2001, in Gaylord. All commissioners are encouraged to attend, if their schedule permits.

**Lawsuit against MCOLES Staff** – Three staff members are enjoined in a lawsuit filed by Mr. Todd Moutelle, who is claiming abuse of authority and denial of due process rights. The MCOLES has sought the representation of the Attorney General's office, and Mr. Mark Meadows has filed a motion for summary judgement.

**MJTC Grant Applications** – Mr. Beach discussed that one of the main responsibilities of the MJTC is grant awarding. Staff has received 85 grant applications totaling \$5,337,052 for FY2002, whereas in FY2001, MJTC awarded 72 grants totaling \$3.2 million dollars. \$3.2 million will again be available this year for distribution.

**Alspaugh v. MLEOTC** – The case has brought national attention to Michigan. The Michigan Court of Appeals ruled in favor of MCOLES in June of 2001, saying that by seeking to include viable female candidates rather than exclude male candidates, the test does not violate the Elliott Larson Civil Rights Act. The age discrimination issue was not as clearly addressed, although the court ruled that the plaintiffs had not shown that statistical differences in the age groups was due to the difference in age rather than a general lack of physical fitness.

## **EXECUTIVE DIRECTOR'S REPORT Continued:**

**External Contacts** – Mr. Beach stated that MCOLES continues to have a presence by exhibiting at the Michigan Association of Chiefs of Police Conference June 24-27, 2001, and at the Prosecuting Attorney's Conference July 18-21, 2001. Given the consolidation efforts that are underway, Mr. Beach feels it was a good opportunity to help clear up misunderstandings and concerns.

**Police Officers Labor Council Conference** – Mr. Beach stated that there is an upcoming Police Officers Labor Council Conference on August 30-31, 2001.

**Annual Reports** – Staff is putting the final touches on the Annual Reports for both MCOLES and MJTC. The last individual reports for the two Commissions will be distributed in December of 2001.

## **COMMITTEE REPORTS:**

Chief Butler reported that the Executive Committee met on July 24, 2001 to discuss the performance plan for the Executive Director. Copies of that plan were available to Commission members following the meeting.

## **OLD BUSINESS:**

**Pre-Employment Test Development** – Mr. Dale Rothenberger reported on the four-item physical fitness test, which consists of push-ups, sit-ups, vertical jump, and a shuttle run. On July 20, 2001, staff met with testing consultants to determine passing scores. Staff met with the academies and their instructors on July 24, 2001, to bring them up to date on the curriculum. The basic training academies will be collecting data for staff to aid in setting passing scores. The number of females tested will influence the data; because they would like to have data on 100 females, it may take two academy cycles to obtain this data.

## **COMMISSION ATTORNEY REPORT:**

Mr. Meadows reported to the Commission on the David Reese case. An order has been entered that dismisses the case. The 6<sup>th</sup> Circuit Court stated that an individual doesn't have a private cause of action against a State agency under the Americans with Disabilities Act; therefore the case was dismissed.

## **COMMISSION ATTORNEY REPORT Continued:**

Mr. Meadows has worked on a revised affidavit to support the academy-certification application process. Mr. Meadows wants to add to the affidavit in item #4 a line stating that the individual worked for no less than minimum wage for all hours worked, and that the individual has neither donated nor been required to pay any money to his employer relating to attendance at the academy.

In reference to the LaShon Russell cheating case at the Detroit Academy, the Detroit Police Department has not yet made a decision on her appeal before the Probationary Officer Board. However, the lawsuit brought by Ms. Russell has been dismissed with prejudice in Ingham County, so the MCOLES portion of the case is done. Mr. Meadows stated that regarding the use of juvenile felony convictions or expungements, the Commission can require disclosure, but cannot treat it as a conviction.

The Commission's request for an Attorney General's Opinion on the other organizations issue was responded to in draft form by Mr. Meadows. Some confusion has arisen over the last portion of the question posed by the Commission. The question read, "Does MCOLES have the authority to grant certification to individuals who are employed by either a private or public organization that does not have independent legislative authorization to operate a law enforcement agency?" The communication that Mr. Meadows and Mr. Beach received indicated that the phrase "independent legislative authorization" was causing confusion. A provision within the statute refers to enforcing general criminal laws of the state as the standard for MCOLES providing certification. In MCL 28.609.Sec 9. (4), the statute discusses having statutory authority to enforce the general criminal laws of the state. Mr. Meadows suggested that in order to resolve this issue with Mr. Ted Hughes of the Attorney General's office, he be authorized to suggest that the question be rephrased as follows:

"Does MCOLES have the authority to certify individuals who are employed by a private organization, and does MCOLES have the authority to certify individuals who are employed by public organizations who do not, by ordinance, charter, or statute, have the authority to enforce the general criminal laws of the State, for the specific positions in which the individuals are employed?"

Mr. Meadows stated that Mr. Hughes, who will be writing the formal opinion, had indicated that he would like to divide the question between public and private employment. Mr. Jack Brown raised the question of including agencies authorized by ordinance, because of the Detroit School Board Police issue. Mr. Meadows explained that school boards do not have the authority to pass ordinances, and that he believes in Detroit, the authority flows from the City Charter, which contains a provision that the Detroit police chief can appoint special police officers. The question is, can MCOLES

## **COMMISSION ATTORNEY REPORT Continued:**

certify officers who do less than enforcing the general criminal statutes of the State? This issue also applies to the University of Detroit. In Mr. Meadows' opinion, this provision does not authorize the police chief to extend the authority to enforce the general criminal statutes, but allows a chief, like a sheriff, to appoint a special police officer for limited purposes.

A **MOTION** was made by Major Marie Waalkes and supported by Sheriff Henry Zavislak to accept Mr. Meadows' recommendation and divide the question between public and private employment.

A **VOTE** was taken. The motion carried. A copy of the new language will be forwarded to the Commission members for review.

## **NEW BUSINESS:**

**MCOLIS Information Technology Network (MITN)** – Ms. Hermina Kramp reported on the MITN project. At the December 14, 2000, Commission meeting, a contractor presentation was made demonstrating recommended solutions for providing real time information to the field. After an internal process of reviewing the available options, authorization was received in February of 2001 to proceed with a request for a proposal, using the recommendations that were in the feasibility study. That request was released in June of 2001, with bids due by August 9, 2001. Six bids were received and evaluated by a Joint Evaluation Committee comprised of experts from different State departments. After a weeklong evaluation process, the bid was awarded to TRW on August 16, 2001. Their proposal includes a web-enabled system with digital imaging and automated forms. It also included the involvement of MCOLIS and their constituency to develop the design. The project has been discussed since 1998, and TRW has proposed that MCOLIS examine a product that is partially developed and still meets our standards. The State Administrative Board will meet to approve the bid on September 4, 2001. The contract must be in place by September 15, 2001, and Ms. Kramp expects to have many processes automated by this time next year. After that point, staff would conduct training in the field. Ms. Kramp stated that the bid was \$1.571 million, based on the accelerated time frame. Mr. Beach raised the point that during FY2001 the spending and hiring freezes had saved monies. Without those funds, the project would have been a 5-year process. Mr. Beach also commended Ms. Kramp and her staff for their hard work on this project.

Mr. Brown asked how many of the audience members currently had the ability to access this type of information off of the website, and all responded in the affirmative. He then

## **NEW BUSINESS Continued:**

stated that speaking on behalf of his organization, they couldn't support a 5-year plan. Mr. Brown suggested that a hard look be taken at the budget in order to expedite the plan.

**FY2002 Budget** – Mr. Beach presented some budget perspective, beginning with FY1999, when he began as Executive Director, through the present day. Mr. Beach then introduced the FY2002 budget, calling it a maintenance budget. He mentioned how the continued support of many organizations led to a \$200,000 increase in the FY2002 budget for MCOLES, and thanked the commissioners for keeping MCOLES as a funding priority in state government.

In the FY2002 budget, all economic increases must be absorbed, reducing the \$200,000 increase to \$166,000.

A portion of this money is allowed for salaries and wages. Mr. Beach explained that there are 33 functional areas of the budget and defined what the money remaining in the general fund will cover. Information Technology is a major functional area and number one priority this year, and MCOLES will continue to sacrifice to put as much of the budget towards it as possible.

Mr. Beach then identified the unfunded needs and how each was prioritized. The priority of in-service training will be a major undertaking in FY2002. The list of unfunded responsibilities was discussed, including revocation and employee tracking. Mr. Brown asked a question about the type of orders the Commission may get relative to the pending merger. Mr. Brown stated that the order usually gives a list of what the Governor wants done. Mr. Beach answered that there are no specifics on what that will be, but that an Executive Order can include a list of expectations. He believes that there is great interest in MCOLES' progress on becoming web-enabled, and also that the Executive Order may establish expectations on a timetable regulating mandatory in-service training. The merger may affect the proposed budget and require the Commission to redirect dollars.

The Training to Locals fund is for the maintenance and delivery of mandatory basic training throughout the State. The reimbursement policy is affixed to the FY2002 budget. Mr. Beach requested a continuation of 30% of the fund to be used for administrative

## **NEW BUSINESS Continued:**

costs. Mr. Beach reviewed the distribution of FY2001's fund before requesting approval of the maintenance of the Training to Locals Fund Reimbursement policy.

A **MOTION** was made by Mr. Jack Brown and supported by Sheriff Henry Zavislak to concur with the budget as proposed by the Executive Director. Mr. Brown added the advisement that staff be prepared to revise the budget in light of the IT project and the impending Executive Order. Sheriff Zavislak suggested that the Commission might want to revisit the entire Training to Locals fund soon. In light of the recent budget tightening, he wondered if this was the best use of dollars, as it does not serve the majority of law enforcement. Mr. Brown discussed the difficulty of finding dedicated funding to support the in-service training, and urged the Commission to work together to find that funding.

A **VOTE** was taken. The motion carried.

**Police Ethics** – Mr. Ken Chant thanked the Commission for coming to Marquette. He spoke on his recent studies of police ethics and the program he has incorporated throughout the Northern Michigan University Academy. He introduced Captain Jeff Mincheff. Capt. Mincheff talked about how ethics has become a part of every subject in the Academy. The Code of Ethics is broken into sections and then built into other modules. Currently, Northern Michigan University is teaching 13 hours of ethics, and the students seem to like it. Chief Brad Arnsbarger of Forsyth Township then continued by discussing the importance of ethics to the profession, and recommending a focus on ethics at the State level. Chief Arnsbarger defined ethics as doing the right thing in the right way at the right time for the right reason. He then showed a videotape that displayed how ethics are reinforced at Northern Michigan University on graduation day. Director Chant then spoke about the agencies that have adopted a Code of Ethics, such as Sheriffs, the F.B.I, and other state and federal agencies. He encouraged the Commission to look at adopting the code of ethics from a statewide perspective.

**Decertification Investigations – Final Action and Order** – Mr. Gary Ruffini addressed the Commission regarding three pending cases. First was Complaint #00775156, David Laiskonis v. MCOLES. This investigation concluded that Mr. Laiskonis was convicted in the 51<sup>st</sup> Judicial Circuit Court of Mason County of one count of CSC – 2<sup>nd</sup> degree Assault, on October 23, 2000. A contested case was held on May 24, 2001, before Hearings Officer Haywood Julian. Included in the official record of the case, which each Commission member received for review, was a copy of the "Proposal for Decision" offered by Mr. Julian. Staff recommended that the hearing officer's finding of fact, conclusion of law, and the issued penalty of revocation be accepted.

**NEW BUSINESS Continued:**

A **MOTION** was made by Sheriff Zavislak and supported by Major Waalkes to accept the recommendation of staff and adopt the Proposal for Decision of the hearing officer revoking the law enforcement certification of Mr. David Laiskonis.

A **VOTE** was taken. The motion carried.

In the second case, Complaint #99826-142, Mr. Jerry Cornett v. MCOLES, the investigation concluded that Mr. Cornett was convicted in the Circuit Court of Macomb County of one count of CSC – 3<sup>rd</sup> degree, on March 20, 2001. A contested case was held on May 24, 2001, before Hearings Officer Haywood Julian. Included in the official record of the case, which each Commission members received for review, was a copy of the “Proposal of Decision” offered by Mr. Julian. Staff recommended that the Commission accept the findings of fact, the conclusions of law, and the issued penalty of revocation be accepted.

A **MOTION** was made by Director Denslow and supported by Mr. DeVries to accept the recommendation of staff and revoke the law enforcement certification of Mr. Jerry Cornett for life.

A **VOTE** was taken. The motion carried.

In the third case, Complaint #00828-183, this investigation concluded that Mr. Terry Johnson was convicted in the Circuit Court of Barry County of one count of Home Invasion 2<sup>nd</sup> degree, and one count of Weapon – Use of CS Device, on January 4, 2001. A stipulation was signed by Mr. Johnson waiving his rights to the due process of a formal hearing, which was accepted by the Executive Director, Mr. Beach. Staff recommended that the Commission accept Mr. Johnson's signed stipulation and, due to his felony conviction, impose a penalty of revocation of his certification as a law enforcement officer.

A **MOTION** was made by Sheriff Rosema and supported by Mr. Brown to accept the recommendation of staff and accept the stipulation agreement signed by Mr. Terry Johnson.

A **VOTE** was taken. The motion carried.

Mr. Nash addressed the Commission on the status of investigations. As of August 1, 2001, there have been 367 complaints filed, of which 121 have been completed, for a clearance rate of 33%. 246 complaints remain, of which 29 are in various stages of

**NEW BUSINESS Continued:**

investigation, leaving 217 (or 59%) awaiting investigation. Mr. Nash believes that this percentage will come down in time, given the new staff additions. Through the MCOLES educational efforts, the word is getting out on the responsibilities we are charged with handling, and the number of cases will continue to grow. Mr. Beach pointed out that the MCOLES staff would be returning to the District Field Representative concept now that there are additional staff members, which will increase MCOLES presence in the field and help assist with these investigations.

**MISCELLANEOUS:**

Mr. Brown recalled his own academy graduation and the reciting of the Law Enforcement Code of Ethics, and encouraged the Commission to ask staff to review the code, and suggested that staff consider preparing a recommendation to the Commission. Mr. Beach assured the Commission that staff would bring this matter back at a future meeting.

**NEXT MEETING:**

**DATE:** October 11, 2001  
**TIME:** 9:30 a.m.  
**LOCATION:** Cadillac, Michigan

This will be a joint meeting with the Michigan Justice Training Commission, and the two Commissions will adopt a regular meeting schedule. Mr. Beach indicated that there is a need for a November 8, 2001, joint meeting for the grant cycle, and an additional meeting in December.

**ADJOURNMENT:**

A **MOTION** was made by Sheriff Henry Zavislak and supported by Officer Rich Weaver to adjourn the meeting at 11:30 a.m.

A **VOTE** was taken. The motion carried.

APPROVED BY \_\_\_\_\_ ON \_\_\_\_\_

WITNESSED BY \_\_\_\_\_ ON \_\_\_\_\_